Supreme Court, U.S.
FILED

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No. (1) 071578 JUN 16 2008

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In The

supreme Court of the united States

John Anthony, Malan,

Petitioner,

v.

THE UNITED STATES OF AMERICA,

Respondent.

On Petition For Writ Of Certiorari
To The Court Of Appeals
For The Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

John Anthony, Malan herein after "the man"
c/o general delivery
Wenatchee, Washington [98801]
(801) 879-0083
a "good" and lawful Christian
by special appearance not general appearance
in want of counsel and not *pro se*

QUESTIONS PRESENTED

Where a man is foreign to the Political ponzi scheme of the executive. How can the executive exercise Political Jurisdiction over "the man" who is not a Fourteenth Amendment "citizen" subject and has never volunteered into the same?

Whether collusion and conflict of interest in the lower court are factors in the subjugation of "the man" to the Political Jurisdiction of the executive?

TABLE OF CONTENTS

	Page
CITATIONS FOR OPINIONS BELOW	1
BASIS FOR JURISDICTION AT THIS COURT	1
CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE	1
STATEMENT OF THE CASE	2
REASONS FOR GRANTING CERTIORARI	3
CONCLUSION	4

APPENDIX

Order And Judgment	App. 1
Verified Motion To Vacate Or Revise Decision Of March 7, 2007	App. 6
Order Of Dismissal And Decision	App. 10
Order	App. 16
Verified Demand For *En Banc* Re-Hearing	App. 17
Designation Of Place Of Trial	App. 19
Notice and Demand	App. 20
Affidavit Of No Response	App. 31
InRe: FOIA Request	App. 33

TABLE OF AUTHORITIES

Page

CONSTITUTIONAL PROVISIONS:

Article I Section 9 4

Article III Sections 1 and 2 ..... 1, 5

Amendment IX 1, 4

Amendment X 1, 4

Amendment XIII 2, 4

Amendment XIV 2, 4

OTHER AUTHORITIES:

1998 IRS Reform and Restructuring Act 3

Marbury v. Madison, 5 US 137 4

CITATIONS FOR OPINIONS BELOW

The Court of Appeals for the Tenth Circuit did not select its opinion (Appendix 1-5) for publication in the Federal Reporter. The order of the Court of Appeals denying the *en banc* demand for rehearing (Appendix 16) is also not published. The "tax" court decision (Appendix 10-15).

BASIS FOR JURISDICTION AT THIS COURT

The Court of Appeals files its decision on January 17, 2008 after a successful campaign by the Appellee to criminally misapprehend material points of law and fact below. The Court of Appeals further denied "the mans" demand for *en banc* rehearing on March 18, 2008. The judicial Power of this supreme Court is hereby invoked pursuant to Article III Sections 1 and 2 of the Constitution of the united States of America.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

The Constitution of the united States of America

Amendment IX – "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people".

Amendment X – "The powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively, or to the people".

Amendment XIII – Section 1 – "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction".

Amendment XIV – Section 1 – "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Section 4 – "The validity of the public debt of the United States, authorized by law . . . shall not be questioned . . . "

STATEMENT OF THE CASE

The Court of Appeals has sanctioned the decision for collection activities – against "the man" whom there is no Political Jurisdiction over (Appendix 20-34) – from the "tax court", based on Appellee criminally misapprehending material points of law and

fact below (Appendix 6-9) to their former employee (now) sitting in the Chief seat at the "tax court".

REASONS FOR GRANTING CERTIORARI

The executive Department through its agents at the Department of the Treasury acting with impunity under the color of law are attempting to subjugate "the man" and deny him life, liberty and the pursuit of happiness by obtaining a "tax court" decision (Appendix 10-15) from one of its former employees, judge Peter J. Panuthos. This conflict of interest is further compounded by the fact that substantial departures from the mode of procedure as outlined by the 1998 IRS Reform and Restructuring Act have been committed and allowed to stand based on Appellee's ability to misapprehend material points of law and fact to their former brother sitting on the bench of the "tax court".

Appellee was able to count on their brother on the bench to disregard the "designation of place of trial" (Appendix 19) so that "the man" could not be at the seat of government to illustrate why the executive had/has no Political Jurisdiction over "the man" (Appendix 20-34).

"The man" John Anthony, Malan reminds this supreme Court that the 1998 IRS Reform and Restructuring Act was born out of the Gestapo type tactics used by the executive and so eloquently outlined by the former late Senator William Roth who

wrote a book "the power to tax is the power to destroy". This great quote originally coming from a man who once sat in the Chief seat of this bench, i.e. John Marshall.

John Anthony, Malan "the man" is not a "citizen" within the meaning of the Fourteenth Amendment. Section four of said Amendment clearly imposes a condition of servitude and is a direct violation of the Thirteenth Amendment prohibition on involuntary servitude.

"The man" has never knowingly, voluntarily or intelligently submitted to the jurisdiction of the executive and "claims the right" (Amendments IX and X) to contract his labor as he sees fit.

Any law that the executive purports to use to claim Political Jurisdiction over "the man" is a "Bill of Attainder" and is forbidden under Article I Section 9 of the Constitution of the united States of America.

"Any law repugnant to the Constitution is void" – Marbury v. Madison, 5 US 137.

CONCLUSION

This supreme Court is the last stop for the people to turn to in attempting to stop savage attempts by the executive to plunder and kill.

The exercise of unwanted Political Jurisdiction over "the man" by the executive is tantamount to a

common highwayman acting under the color of law – totally devoid of substance.

"The man's" desire is to live peaceably among men.

This supreme Court has a fiduciary responsibility to the people. Article III of the Constitution of the united States of America does not allow you to pick and choose what cases you will hear. This case must be heard and either reversed or in the alternative remanded to see if Appellee's process holds up in the light of day in front of an unbiased judge.

Respectfully submitted,

John Anthony, Malan "the man"
c/o general delivery
Wenatchee, Washington [98801]
(801) 879-0083
a "good" and lawful Christian
by special appearance not general appearance
in want of counsel and not *pro se*

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

JOHN ANTHONY MALAN,

Petitioner-Appellant,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellee.

No. 07-9003
(T.C. No. 23642-06L)
(United States Tax Court)

ORDER AND JUDGMENT*

(Filed Jan. 17, 2008)

Before **TACHA**, **EBEL**, and **MURPHY**, Circuit Judges.

John Anthony Malan appeals from orders of the United States Tax Court dismissing his petition for

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

review and summarily denying his motion to vacate or revise its order dismissing the petition. We affirm the challenged orders of the Tax Court and impose sanctions on Mr. Malan for filing a frivolous appeal. In his Tax Court petition, Mr. Malan included a single ground for relief:

> complete discharge – The Dept. – the Service and this created administrative Boad [sic] are without political Jurisdiction over this man.

R., doc. 1.

The Tax Court ordered him to file an amended petition setting forth with specificity the factual and legal basis for his claims for relief. He failed to do so. He also failed to respond, either in writing or by personal appearance, at the hearing scheduled on the Commissioner of Internal Revenue (Commissioner)'s motion to dismiss his petition for failure to state a claim. Accordingly, the Tax Court granted the requested dismissal.

On April 6, 2007, Mr. Malan filed his "verified motion to vacate or revise decision of March 7, 2007." R., doc. 14; *see also* Tax Court Rule 162. In this motion, he set forth in cursory terms seventeen grounds on which he contended that the Tax Court should vacate or revise its decision. The arguments in his motion did not address the Tax Court's basis for dismissing his petition. The Tax Court summarily denied the motion.

In his petition for review filed in this court, Mr. Malan raises a number of contentions, some of them expressly denominated as issues, and others as facts or bases for reversal. He argues: (1) that the Internal Revenue Service (IRS) lacked "Political Jurisdiction over the man – John Anthony, Malan" to pursue collection activities against him, Aplt. Opening Br. at 3; (2) that the notice of levy issued to him is a "counterfeited security," *id.*; (3) that the Commissioner "never issued authorization for any action to his underlings," *id.*; (4) that the Commissioner failed to follow the procedures required by the Internal Revenue Service Restructuring and Reform Act of 1998, 26 U.S.C. § 6330 in his case; (5) that the Commissioner deprived him of due process by denying him permission to record his Collection Due Process Hearing; (6) that the Tax Court judge's bias was self-evident, because the judge was previously employed by the IRS; (7) that the IRS improperly rejected his settlement offer of twenty-five silver dollars; (8) that the Tax Court failed to honor his designation of the place of trial; and (9) that the tax obligation the Commissioner seeks to collect is "fictitious, phony and contrived," *id.* at 8.

We review de novo the Tax Court's decision to dismiss Mr. Malan's petition for failure to state a claim. *Fox v. Comm'r*, 969 F.2d 951, 952 (10th Cir. 1992). The Tax Court's denial of his motion to vacate or revise its decision is reviewed for an abuse of discretion. *See Estate of Kraus v. Comm'r*, 875 F.2d 597, 602 (7th Cir. 1989). Mr. Malan's arguments lack

merit and/or are frivolous. None of them address the Tax Court's basis for dismissal of his petition. We therefore affirm the challenged Tax Court decisions.

The Commissioner has filed a motion requesting that we sanction Mr. Malan for maintaining a frivolous appeal. Although provided with an opportunity to do so, Mr. Malan did not respond to the motion for sanctions. "Fed. R. App. P. 38 and 28 U.S.C. § 1912 provide that a court of appeals may award just damages and single or double costs if the court determines that an appeal is frivolous or brought for purposes of delay." *Kyler v. Everson,* 442 F.3d 1251, 1253 (10th Cir. 2006) (quotation omitted).

In his petition for review in this court, Mr. Malan renews the same frivolous argument for which the Tax Court previously admonished him. *See* R., doc. 10, at 4. "Although this court may require a higher level of responsibility from members of the bar, pro se litigants are subject to the same minimum litigation requirements that bind all litigants and counsel before all federal courts." *Kyler,* 442 F.3d at 1253 (citation omitted). The Government's motion for sanctions is well-founded. *See id.*

The Government requests that we award it sanctions in the amount of $8,000, reasoning that "the average expense in attorney salaries and other costs incurred by this office in the defense of frivolous taxpayer appeals in which sanctions were awarded during 2004 and 2005 is more than $11,000." Mot. for Sanctions, at 5-6. Particular factors in this case,

however, make the requested sum inappropriate. Mr. Malan made only one argument in his Tax Court petition. The Tax Court dismissed the petition for failure to state a claim, and declined to impose sanctions. Although he raised a number of frivolous arguments in his subsequent motion to vacate or revise the Tax Court's dismissal, the Tax Court disposed of these summarily. Mr. Malan renews some of these frivolous arguments on appeal, but the Government has not briefed them. Instead, the argument section of its nineteen-page brief essentially responds only to the single frivolous argument raised in Mr. Malan's original petition. *See* Aplee Br. at 13-16. Under the circumstances, while an award of sanctions is appropriate, in our discretion we reduce the requested sum to $2,000.

The judgment of the Tax Court is AFFIRMED. The mandate for sanctions shall issue forthwith.

Entered for the Court

Deanell Reece Tacha
Circuit Judge

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JOHN ANTHONY MALAN	)	
Petitioner	)	
	)	
v.	)	23642-06L
	)	
COMMISSIONER OF INTERNAL REVENUE	)	(Filed Apr. 6, 2007)
	)	
Respondent	)	

VERIFIED MOTION TO VACATE OR REVISE DECISION OF MARCH 7, 2007

Now comes John Anthony, Malan – a "good" and lawful, living, breathing, Christian man by ministerial (Special) appearance not general appearance, in want of counsel and not *pro se* and moves this "court" to vacate or revise its decision. Reasons are set forth as follows:

1. It is not known if arguing "a case" confers Political Jurisdiction over a man.

2. It is a Fact that Political Jurisdiction has never been established against John Anthony, Malan – the man.

3. It is not known if decision of Special Trial Judge was authorized or within the scope of Title XVIII of your rules.

4. It is not known if such a thing as a deficiency ever existed.

5. It is not known if a valid assessment ever issued pursuant to the explicit language of your 26 USC 6201.

6. It is not known if a Notice and Demand for payment ever issued on Form 17 – pursuant to your Treasury decision 1995.

7. It is not known if an offer of twenty-five (25) Silver Dollar Coins of Lawful Money of Account – pursuant to the Coinage Act of April 2, 1792 – constitutes a bona fide Collection Alternative.

8. It is not known if House Joint Resolution 192 of June 5, 1933 – precludes payment of anything. *Cf. your Constitution Article I Section 10 Clause 1.*

9. It is not known how to De-Code your transaction code entries contained in your "Individual" Master File – IMF Specific.

10. It is not known if all the Administrative procedures – contained in your 26 USC 7401 and 26 USC 6330(c)(1) – have ever been met.

11. It is not known if your notice of lien/levy constitutes a forged security pursuant to your 18 USC 513(a).

12. It is not known if the unrecorded conversation of your CDPH constitutes "due process" within the meaning of your Constitution's Fifth (5th) Amendment.

13. It is not known if entering into an arrangement with the government creates "risk" – *Federal Crop Insurance Corporation v. A.A. Merrill 332 US 380-388*

14. It is not known why the "Designation of Place of Trial" executed on November 13, 2006 was not honored.

15. It is not known if all issues have been raised.

16. It is not known if any rights were waived.

17. It is not known if the law can compel the doing of impossibilities – ***Lex non cogit ad impossibilia.***

Wherefore in light of these John Anthony, Malan makes demand your decision entered on March 9, 2007 be vacated or in the alternative a new or further "trial" be had at Salt Lake City, Utah – wherein these substantive factual negative averments can come to light. This true instrument was re-executed pursuant to your 28 USC 1746(1) on April 4, 2007.

/s/ John Anthony, Malan
JOHN ANTHONY MALAN

CERTIFICATE OF SERVICE

I John Anthony, Malan – the man do hereby affirm that on April 5, 2007 Service of a True and complete copy of the foregoing instrument was served upon the other side by depositing the same in a properly addressed – sufficient First-Class postage

affixed – envelope to be delivered by the United States Postal Service.

/s/ John Anthony, Malan
JOHN ANTHONY MALAN

[Denied Apr. 10, 2007]

UNITED STATES TAX COURT

WASHINGTON, DC 20217

JOHN ANTHONY MALAN	)	
Petitioner	)	
	)	
v.	)	Docket No. 23642-06L.
COMMISSIONER OF INTERNAL REVENUE	)	
	)	
Respondent	)	

ORDER OF DISMISSAL AND DECISION

This case is before the Court on respondent's Motion To Dismiss For Failure To State A Claim Upon Which Relief Can Be Granted, filed on January 9, 2007, pursuant to Rule 40 and supplemented on February 6, 2007. As discussed below, we shall grant respondent's motion as supplemented.

Petitioner resided in Salt Lake City, Utah, at the time that the petition was filed with the Court.

Background

On October 31, 2006, respondent issued to petitioner a Notice of Determination Concerning Collection Actions Under Section 6320 and/or 6330[1]

[1] Section references are to the Internal Revenue Code as amended and in effect for the years in issue and with respect to notices of determination issued after Oct. 16, 2006.

sustaining a proposed levy with respect to petitioner's unpaid Federal income taxes for 2000 and 2002, and civil penalties for frivolous returns under section 6702 for 1997, 1999, 2000, and 2002, and for false information with respect to withholding under section 6682 for 2002.

On November 20, 2006, petitioner filed with the Court a Petition for Lien or Levy Action, in which he alleged:

> Based on first hand knowledge/unknown complete discharge – The Dept. – the Service and this created administrative boad (sic) are without political jurisdiction over this man.

As noted above, on January 9, 2007, respondent moved to dismiss the case for failure to state a claim upon which relief can be granted in response to the petition.[2]

By Order dated January 17, 2007, the Court directed petitioner, on or before February 7, 2007, to file with the Court an amended petition in which petitioner sets forth with specificity each error petitioner alleges was made by respondent in the notice of determination, and separate statements of every fact upon which petitioner bases the assignment of each error. The Court also directed petitioner to file

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[2] Respondent concedes that the civil penalty for frivolous returns under sec. 6702 for 1997 has been discharged, accordingly respondent no longer seeks collection action in this regard.

an objection, if any, on or before February 7, 2007. By Order dated January 17, 2007, this matter was set for hearing on February 28, 2007, in Washington, D.C. In the Order, petitioner was reminded of the applicability of Tax Court Rule 50(c), which provides for the submission of a written statement in lieu of, or in addition to, attendance at the hearing.

Respondent filed a supplement to the motion to dismiss on February 6, 2007, in which respondent provided the Court with Forms 2866, Certificate of Official Record, and Forms 4340, Certificate of Assessment, Payments, and Other Specified Matters with respect to petitioner's unpaid Federal income taxes for 2000 and 2002, civil penalties for frivolous returns under section 6702 for 1999, 2000, and 2002, and for false information with respect to withholding under section 6682 for 2002.

Respondent's motion to dismiss was called for hearing at the Court's motions session held in Washington, D.C., on February 28, 2007. Counsel for respondent appeared at the hearing and offered argument in support of respondent's motion to dismiss. There was no appearance by or on behalf of petitioner, and petitioner did not file a Rule 50(c) statement.

The hearing on respondent's motion to dismiss was continued to March 7, 2007, where it was again heard at the motions session in Washington, D.C. Counsel for respondent appeared at the hearing and offered argument in support of respondent's motion to

dismiss. There was no appearance by or on behalf of petitioner, and petitioner did not file a Rule 50(c) statement.

Discussion

Section 6330 provides that the Commissioner must give a person notice of intent to levy to collect Federal tax and offer the person an opportunity for an administrative review of that matter. Section 6330 provides that such person may raise at the hearing any relevant issue relating to the unpaid tax including appropriate spousal defenses, challenges to the appropriateness of the collection action, and offers of collection alternatives. Section 6330(c)(2)(B) bars a person from challenging the existence or amount of the underlying tax liability if the person received a notice of deficiency or had an earlier opportunity to dispute the tax liability. If the person is dissatisfied with an Appeals Office determination regarding a collection action, the taxpayer may seek judicial review of the administrative determination in the Tax Court.[3] See *Goza v. Commissioner,* 114 T.C. 176, 179 (2000).

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[3] Sec. 6330(d)(1) was amended by the Pension Protection Act of 2006, Pub.L. 109-280, sec. 855(a), 120 Stat. 1019, effective for determinations made after the date which is 60 days after Aug. 17, 2006 (i.e., after Oct. 16, 2006), to provide, in effect, that the Tax Court shall have jurisdiction for appeals from all determinations made under sec. 6330.

Rule 331(b)(4) requires that a petition for lien or levy action filed in this Court contain clear and concise assignments of each and every error that the taxpayer alleges to have been committed by the Commissioner in the notice of determination. Rule 331(b)(4) also states that any issue not raised in the assignments of error shall be deemed to be conceded. Rule 331(b)(5) further requires that a petition for lien or levy action contain clear and concise lettered statements of the facts on which the taxpayer bases each assignment of error.

The pleadings that petitioner filed in this case do not satisfy the requirements of Rule 331(b)(4) and (5). Although the Court (through its Order dated January 17, 2007) afforded petitioner an opportunity to articulate a justiciable claim for relief, petitioner did not do so. See *Crain v. Commissioner,* 737 F.2d 1417 (5th Cir. 1984).

Petitioner did not raise a spousal defense or challenge respondent's collection action by offering a less intrusive means for collecting his unpaid taxes. Sec. 6330(c)(2)(A). These issues are now deemed conceded. Rule 331(b)(4). Because petitioner has failed to state a valid claim for relief, we shall grant respondent's motion to dismiss this case.

Section 6673(a)(1) authorizes the Tax Court to require a taxpayer to pay to the United States a penalty not in excess of $25,000 whenever it appears that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the

taxpayer's position is such proceeding is frivolous or groundless. See *Pierson v. Commissioner,* 115 T.C. 576 (2000). Although we will not impose a penalty on petitioner in this case, we will take this opportunity to admonish petitioner that the Court will consider imposing such a penalty should he return to the Court and advance similar arguments in the future.

Accordingly, upon due consideration of the foregoing and for cause, it is

ORDERED that respondent's Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted, filed January 9, 2007, and supplemented on February 6, 2007, is granted and this case is dismissed on the ground that the pleadings fail to state a claim upon which relief can be granted. It is further

ORDERED AND DECIDED that respondent may proceed with collection for taxable years 1999, 2000, and 2002, as determined in the Notice of Determination Concerning Collection Actions, dated October 31, 2006, upon which this case is based.

/s/ Peter Panuthos
Peter J. Panuthos
Chief Special Trial Judge

ENTERED: MAR 9 2007.

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JOHN ANTHONY MALAN, Petitioner-Appellant, v. COMMISSIONER OF INTERNAL REVENUE, Respondent-Appellee.	No. 07-9003

ORDER

(Filed Mar. 18, 2008)

Before **TACHA**, **EBEL** and **MURPHY**, Circuit Judges.

Appellant's petition for rehearing is denied.

The petition for rehearing en banc was transmitted to all of the judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied

Entered for the Court,

/s/ Elisbeth A. Shumaker
ELISABETH A. SHUMAKER,
Clerk

John Anthony, Malan
general delivery
Emporia, Kansas
a "good" and lawful Christian man
by ministerial (special) appearance not general appearance in want of counsel and not *pro se*

COURT OF APPEALS FOR THE TENTH CIRCUIT

John Anthony, Malan [P]etitioner v. COMMISSIONER OF INTERNAL REVENUE Respondent	)	07-9003 (Filed Feb. 29, 2008)

VERIFIED DEMAND FOR *EN BANC* RE-HEARING

Now comes John Anthony, Malan (hereinafter "the man") – a "good" and lawful living, breathing, Christian man by ministerial (Special) appearance not general appearance, in want of counsel and not *pro se* and doeth hereby demand this court to set this matter for immediate ***En banc*** Re-Hearing. This matter being unusually novel and of wide impact is further complicated by the fact Appellee was able to misapprehend material points of fact and law. By disregarding "the place of designation of trial" the appellee in concert with his brother on the "tax" court bench, knew full well that it would be an economic

hardship on "the man", if they ignored "the place of designation of trial" and proceeded to contrive a decision favorable to the "service" while sitting at the seat of government. Circuit judges Tacha, Ebel and Murphy conveniently dispose of the matter by turning a blind eye to the lack of due process afforded "the man". Because these judges and the lower court know the position of "the man" they cowardly hid behind the color of law and refuse to remand so as to shed light on the Appellee's willful violations of the 1998 IRS Reform and Re-Structuring Act.

Wherefore "the man" makes demand (again) this court grows some courage and compel (remand) the actor's involved to crawl out from under the color of law and prove their substance against "the man".

Pursuant to your 28 USC 1746 [I] declare under penalty of perjury under the laws of the united States of America that the foregoing is correct and true except for that which is based upon information and belief..

Executed on
February 28, 2008 (Signed) John Anthony, Malan
John Anthony, Malan—the man

UNITED STATES TAX COURT

John Anthony Malan Petitioner(s)	)	
v.	)	Docket No. 23642-06
COMMISSIONER OF INTERNAL REVENUE, Respondent,	)	(Filed Nov. 20, 2006)

DESIGNATION OF PLACE OF TRIAL

Petitioner(s) hereby designate(s) Salt Lake City, Utah (City and State) as the place of [trial] of this case.

UDWOP
/s/ John Anthony, Malan
Signature of Petitioner or Counsel

Dated: November 13, 2006

John Anthony, Malan
general delivery
Salt Lake City, Utah
united States of America

Registered Mail No. RA 367 692 916 US

February 7, 2007

Mr. Henry M. Paulson, Jr.
c/o Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington DC 20220

Mr. Mark W. Everson
c/o Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Mr. John O. Colvin
c/o United States Tax "Court"
400 Second Street N.W.
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GARY W. OTT
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JOHN ANTHONY MALAN
GENERAL DELIVERY
SLC UT
BY: ZJM, DEPUTY – WI 8 P.

NOTICE AND DEMAND.

NOTICE

In the matter of the United States; the Department of the Treasury; the Internal Revenue Service; the United States Tax "Court" v. John Anthony, Malan, be hereby advised and Notified:

1. Whereas, as it is well known and self evident, governments do not exist in nature, and;

2. Whereas, as it is well known and self evident, governments are fictional entities created by men, and;

3. Whereas, as it is well known and self evident, creatures cannot be greater than their creators, and;

4. Whereas, as it is well known and self evident, no single "person" has any natural authority to politically bind any other, and;

5. Whereas, as it is well known and self evident, governments cannot be imbued with authority in excess or greater than the men who created them, and,

6. Whereas, as it is well known and self evident, prior to July 4, 1776, the people sojourning on the Thirteen Colonies established on the North American continent were under the political dominion of the British Empire, and;

7. Whereas, as it is well known and self evident, that as of July 4, 1776, the People of the Thirteen (former) British Colonies of North America, engaged in an armed rebellion against their Former British Sovereign, and;

8. Whereas, as it is likewise well known and self evident, the aforementioned Rebels prevailed in their armed rebellion and therein wrested their personal "individual" sovereignty from their former foreign

British sovereign and thereby each and every one of the former British subjects became each and every one, "individually" and personally sovereign over his or her own "individual person", and;

9. Whereas, as it is equally well known and self evident, that as of July 4, 1776, any and all political authority and or political jurisdiction exercised by any political authority of any and every nature whatsoever, prior to the said date, over the Thirteen (former) British Colonies of North America, ceased to exist in every way, and;

10. Whereas, as it is equally well known and self evident, that as of July 4, 1776, any and all political authority and or political jurisdiction exercised by any political authority of any and every nature whatsoever, prior to the said date, over the People, and/or the Posterity thereof, sojourning on aforementioned Thirteen (former) British Colonies of North America, ceased to exist in every way, and;

11. Whereas, as it is equally well known and self evident, that as of July 4, 1776, based on the foregoing, the People of the aforementioned Rebellion, sojourning" on the (former) British Colonies, became, each and every man and woman thereof, politically equal to each other, with none nor any combination thereof, having political authority over any other, singly, or in any combination thereof, and;

12. Whereas, as it is equally well known and self evident, that subsequent to July 4, 1776, several of

the aforesaid People formed a Federation known as The United States of America, and:

13. Whereas, as it is equally well known and self evident, The United States of America is a fictional political entity, and;

14. Whereas, as it is equally well known and self evident, it is absolutely and irrefutably impossible for a real live flesh and blood man to be born into a fictional entity, and;

15. Whereas, as it is equally well known and self evident, that any government formed by any of or any combination of the aforesaid People, subsequent to July 4, 1776, that said government could not, would not, did not and does not have any political authority to bind or claim the service of any of the aforesaid men or women who did not each one "individually" and personally freely volunteer into such service, and;

16. Whereas, as it is equally well known and self evident, that subsequent to the formation of the Federation known as The United States of America, the creators thereof created as a sub-part of their political fictional government, a fictional entity which they deemed to be known as the Supreme Court of the United States, and;

17. Whereas, as it is equally well known and self evident, that subsequent to the formation of the sub-part of their political fictional government known as the Supreme Court of the United States, the creators thereof did appoint one of themselves, namely, John

Jay, as Chief Justice of the Supreme Court of the United States, and;

18. Whereas, as it is equally well known and self evident, that in 1793, in a case called Chisholm vs. Georgia, (2 Dall./US 419), Chief Justice John Jay wrote words to the effect, "That upon the revolution, the former [British] subjects became joint tenants in the sovereignty." and;

19. Whereas, as it is equally well known and self evident, that in 1865, the Thirteenth Amendment to the Constitution of the United States was adopted and ratified, and;

20. Whereas, as it is equally well known and self evident, the Thirteenth Amendment provides that involuntary servitude shall not exist in the United States or in any place subject to their jurisdiction, except as a punishment for crime whereof the "party" shall have been duly convicted, and;

21. Whereas, as it is equally well known and self evident, that as the Thirteenth Amendment does provide a very short list of exceptions for "parties" who might be subjected to involuntary servitude, being limited to punishment for crime whereof the party shall have been duly convicted, and;

22. Whereas, as it is equally well known and self evident, the prohibition of involuntary servitude mandated in the Thirteenth Amendment clearly indicates the foregoing prohibition is applicable to the Posterity of the former British subjects (and every

other man lawfully born on the land area claimed to be under the governance of the United States). That is, the Thirteenth Amendment's prohibition of involuntary servitude constitutes a codification of the principle expounded by John Jay, (regarding the emancipation of July 4, 1776), in Chisholm vs. Georgia, and;.

23. Whereas, as it is equally well known and is in any event, self evident, that the Fourth Article of the Fourteenth Amendment mandates that "citizens" of the United States pay the public debt without complaint; and;

24. Whereas, as it is equally well known and is in any event, self evident, that this Fourth Article provision of the Fourteenth Amendment establishes that US citizenship constitutes and is undeniably a condition of political servitude, and:

25. Whereas, as the foregoing item clearly establishes that US citizenship constitutes and is a servitude status, that therefore, US citizenship must be and is, therefore, only attainable on a voluntary basis, as a voluntary political status, and

26. Whereas, as the foregoing item clearly establishes, US citizenship cannot be and is not acquired automatically by a man's birth on the land area claimed to be under the governance of the United States, and;

27. Whereas, as it is equally well known and is in any event, self evident, that the act of acquiring US

citizenship is mandated to be a voluntary act, in order that those "persons" born on the land area claimed to be under the governance of the United States, who subject themselves to US citizenship, do so on a totally voluntary basis in order that their subjection to such servitude be unquestionably a voluntary act, freely, willingly and intentionally entered into, only after being fully informed of the consequences thereof prior thereto, in order that the resulting servitude be established as being totally voluntary, in compliance with the Thirteenth Amendment's prohibition of involuntary servitude, and;

28. Whereas, as it is equally well known and self evident, a careful reading of the citizenship clauses of the First Article of the Fourteenth Amendment will reveal that those clauses do NOT in any way provide that all persons born on the land area claimed to be under the governance of the United States are, due to such birth, automatically citizens thereof, and;

29. Whereas, as the Undersigned, being naturally born on the land area claimed to be under the governance of the United States but not born under the jurisdiction thereof, but rather, being born of the Posterity of the Rebels of July 4, 1776 and NOT of the Posterity of the People of the Preamble to the Constitution of the United States of America, the Undersigned has not volunteered into servitude to the United States or to the United States of America or to any political subdivision of the aforementioned, and;

30. Whereas that all "Officers of the Court," which include members of the United States Tax Court staff, are under Oath of office to support and defend the U.S. Constitution;

31. Whereas, as it is self evident, this instant writing constitutes and is lawful notification of the foregoing and is presented to the addressee pursuant to the Constitution of the United States of America, specifically, the First, Fourth, Fifth, Sixth, Seventh, Ninth, Tenth, Thirteenth and Fourteenth Amendments thereof, and pursuant to the Oath(s) of office of the addressees hereof, and;

DEMAND

1. Therefore, let the Addressees (or their agents) above, be hereby advised, the above NOTICE requires the written response of the addressees above. Such written responses is to be delivered to the undersigned, specific to the subject matter herein set forth above, and;

2. Therefore, let the Addressees and each of them be further advised, the failure of the addressees or any of their agents to respond, as demanded, and to rebut, specifically and with particularity, everything set forth in this NOTICE with which said addressees or any of them disagrees, will constitute their lawful, legal and binding agreement with and admission to the fact that everything set forth in this NOTICE is true, correct, legal, lawful and fully binding upon said addressees and any and all of them in any and every

court on the United States of America, without protest or objection of those Addressees and each and any of them or those who represent said addressees.

3. Therefore, let the Addressees and each of them be further advised, that their silence is their acquiescence. See: Connally v. General Construction Co., 269 U.S. 385,391. Notification of legal responsibility is "the first essential of due process of law". See also: U.S. V. Tweel, 550 F.2d.297. Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading.

4. Therefore, based on the foregoing NOTICE, the undersigned hereby demands that the United States; the Department of the Treasury; the Internal Revenue Service; the United States Tax "Court" that instituted the harassment of the undersigned, cease and desist from any further such activity.

5. Failure of the above referenced government Departments or Agencies or any of them to comply with this DEMAND or reply, in writing thereto, within thirty (30) days of the date herein, and/or failure of the said Departments or Agencies, or any of them, to respond, in writing, to the undersigned, and support the said Department's or Agencies' disagreement by presenting proof and/or factual Constitutionally based evidence that the undersigned has voluntarily submitted and subjected himself to the jurisdiction of the United States of America, or any political subdivision of any kind anywhere, within

thirty (30) days of the date herein, shall constitute the said Departments or Agency's acknowledgment that the facts set forth herein in the above NOTICE are true, and that a certified and notarized copy of this "NOTICE and DEMAND" shall be accepted by the County Recorder of Salt Lake City County, State of Utah or anywhere else as authority to immediately remove any liens (or whatever).

Signed and duly notarized and recorded with the County Recorder.

/s/ John Anthony, Malan
John Anthony, Malan
a "good" and Lawful Living
breathing Christian man

Subscribed and affirmed to me a Notary Public, on Salt Lake City County of the land of Utah this 8th day of February 2007.

/s/ Kathleen H. Richins (NOTARY PRINT) 8-10-10 MY COMMISSION EXPIRES

/s/ Kathleen H. Richins
(NOTARY SIGNATURE)

[SEAL]

KATHLEEN H. RICHINS
Notary Public
State of Utah
My Comm. Expires Aug. 10, 2010
10625 S State St. Sandy UT 84070

[Declaration of Service

I John Anthony, Malan-"the man" do hereby affirm and saith that on February 8, 2007 in addition to serving—the Notice and Demand, Demanding to know when and how the Executive acquired Political Jurisdiction over John Anthony, Malan "the man"—on Mr. Henry M. Paulson Jr. by Registered Mail (RA 367692916 US); service was also made on Mr. Mark W. Everson—Registered Mail (RA 367692902 US); and Mr. John O. Colvin—Registered Mail (RA 367692920 US) on the same day.]

John Anthony, Malan
general delivery
Salt Lake City, Utah
united States of America

Certified Mail No. 7006 3450 0001 6884 0109

March 15, 2007

Mr. Henry M. Paulson, Jr.
c/o Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington DC 20220

Mr. Mark W. Everson
c/o Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Mr. John O. Colvin
Mr. Peter J. Panuthos
c/o United States Tax "Court"
400 Second Street N.W.
Washington, DC 20217

10034869
03/15/2007 03:54 PM
$12.00 Book – 9435
Pg – 7702-7703
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
JOHN ANTHONY MALAN
GENERAL DELIVERY
SLC UT
BY: ZJM, DEPUTY – WI 2 P.

AFFIDAVIT OF NO RESPONSE

I John Anthony, Malan do affirm and saith that the Notice and Demand sent to the above persons – demanding to show how and when they acquired Political Jurisdiction over John Anthony, Malan the living breathing man – has gone unanswered.

Said Notice and Demand is recorded at the Salt Lake County Recorder – Recording No. 10001875; Book 9421; Pages 4616-4623.

The above named persons not having Political Jurisdiction over John Anthony, Malan the living breathing man renders their actions against John Anthony, Malan the living breathing man-fraudulent and void.

Signed and duly notarized and recorded with the County Recorder at Salt Lake City, Utah.

/s/ John Anthony, Malan
John Anthony, Malan
a "good" and Lawful living
breathing Christian Man

Subscribed and affirmed to me a Notary Public, on Salt Lake City County of the land of Utah this 15th day of March 2007.

/s/ Gaylan B Luke (NOTARY PRINT) ON STAMP MY COMMISSION EXPIRES

/s/ Gaylan B Luke
(NOTARY SIGNATURE)

[SEAL]

GAYLAN B LUKE
Notary Public
State of Utah
My Comm. Expires Sep 29, 2010
7080 S Redwood Rd West,
Jordan UT 84084

John Anthony, Malan
general delivery
Salt Lake City, Utah
united States of America

March 23, 2007

Certified Mail No. 7004 2510 0004 8686 3350

Mr. Henry M. Paulson, Jr.
Secretary of the Treasury
Pennsylvania Avenue N.W
Washington DC 20220

INRE: FOIA REQUEST

Dear Mr. Secretary:

Title 5 United States Code 552 governs this request. This request is not for commercial purposes and I am aware that Title 5 imposes a twenty (20) day time limit in producing the requested records.

I believe that most exemptions (with respect to producing documents) are discretionary, rather tha[n] mandatory. If for any reason you make determination that any portion of this request be exempt from release – I hereby request you furnish the following:

1. those portions reasonably segregable after the exempt material is deleted;

2. detailed signed justification for your discretionary exemption – since the overriding objective of the FOIA is to maximize public access to agency records.

3. provide the name of the official and the correct address to which an administrative appeal can be taken.

I will pay up to twenty in fees for these documents. If more is required please advise.

The records sought pertain to one JOHN ANTHONY MALAN – US Tax Court Case No.23642-06L.

John Anthony, Malan the living breathing man is seeking a Verified/Certified copy that the Administrative procedures of 26 USC 7401 and 26 USC 6330(c)(1) have been met.

If you have any questions processing this request, please don't hesitate to contact John Anthony, Malan – the living breathing man.

Thanking you in this matter

/s/ John Anthony, Malan
John Anthony, Malan

No. 07-1578

In The
supreme Court of the united States

John Anthony, Malan,

Petitioner,

v.

THE UNITED STATES OF AMERICA,

Respondent.

On Petition For Writ Of Certiorari
To The Court Of Appeals
For The Tenth Circuit

DEMAND FOR RE-HEARING

John Anthony, Malan herein after "the man"
c/o general delivery
Wenatchee, Washington [98801]
(801) 793-0290
a "good" and lawful Christian
by special appearance not general appearance
in want of counsel and not *pro se*

THE MAN'S DEMAND FOR RE-HEARING GROUNDS FOR RE-HEARING

The man makes demand for re-hearing of the order allegedly issued by this Court. On October 6, 2008 (the first day of your new term) the clerk notified the man that this Court denied the Petition for Writ of Certiorari. To date the man has not received a signed order from this Court.

The grounds for re-hearing are very simple:

1. From your own website – http://www.supremecourtus.gov – you display a document called "The Court and Constitutional Interpretation" it says *inter alia* "Equal Justice Under Law" – These words written above the main entrance to the supreme Court building, express the ultimate responsibility of the supreme Court of the united States. The Court is the highest tribunal in the Nation for ***all cases and controversies*** arising under the Constitution or the laws of the united States. As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under the law and, thereby, also functions as guardian and interpreter of the Constitution.

2. The same document proudly displays in very large font – "The republic endures and this is the symbol of its faith." – Chief Justice Charles Evans Hughes

cornerstone address for the supreme Court Building on October 13, 1932.

3. The document continues to say that "constitutional interpretation must be left to the reasoned judgment of independent judges, rather than to the tumult and conflict of the political process."

4. The last major point the man wants to remind this Court with respect to this informative document is from your former brother John Marshall, who, of his own accord invoked the power of judicial review and asserted the supreme Court's responsibility to overturn un-constitutional legislation because of its sworn duty to uphold the Constitution.

CONCLUSION

The man not being responsible for being born found himself on this great land. When he came to the age of reason he was taught of the greatness of this country because of three separate but equal branches of government. As knowledge increased in the man he learned that the so called great American "experiment in democracy" was a fraud. He learned that the true consumers in America are attorneys, politicians and bankers because you all eat out the substance of the common working man and put nothing back but pain, misery and suffering – PMS.

Jesus Christ warns us about you in Luke 11:46 – "Woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers." Luke 11:52 – "Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered." (King James Bible)

Is there a man up there on the highest bench of this world or is there strange flesh hiding behind those black robes? – Jude 6-7. (King James Bible)

The man makes demand this Court stop denying the man access to the law and become the final arbiter of the law (you claim to be). Stand up to the vipers at the Executive Department by re-hearing and granting Certiorari in this matter.

"Respectfully" submitted

John Anthony, Malan "the man"
c/o general delivery
Wenatchee, Washington [98801]
801-793-0290
a "good" and lawful Christian
by special appearance not
general appearance in want
of counsel and not *pro se*

CERTIFICATION OF GOOD FAITH

The man doth hereby affirm that this demand for re-hearing is presented in good faith and not for delay. (The Executive Department on October 9, 2008 has already filed a Notice of Federal Tax Lien).

_____

John Anthony, Malan "the man"